

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:B03

PLR-100479-15

Date:

July 06, 2015

### Legend

Parent =

Sub 1 =

Sub 2 =

Old Foreign Sub 1 =

Year End =

Date 1 =

a =

Company Official =

Tax Professionals =

Dear :

This letter is in response to your authorized representative's letter dated December 23, 2014, requesting an extension of time under §§ 301.9100-1 through 301.9100-3 of the Procedure and Administration Regulations to file an election under § 1.1502-13(l)(3) of the Income Tax Regulations (hereinafter referred to as the "Election"). Additional information was received in letters dated May 7, 2015 and May, 27, 2015. The material information submitted is summarized below.

Parent is the common parent of a consolidated group that has a taxable year ending Year End (the "Parent Group"). Parent owns all of the stock of Sub 1 and Sub 2, both of which are members of Parent Group. Sub 1 is a holding company for the worldwide operations of Parent Group. Sub 1 owned all of the stock of Old Foreign Sub 1.

On Date 1, which was prior to the Parent Group's first taxable year beginning on or after July 12, 1995, Sub 1 distributed the stock of Old Foreign Sub 1 to Parent (the "Old Foreign Sub 1 Distribution"). Sub 1 realized \$a of gain on the Old Foreign Sub 1 Distribution, all of which was deferred under § 1.1502-13.

In July 1995, the Internal Revenue Service and Treasury Department published new intercompany transaction regulations under § 1.1502-13 governing the treatment of transactions between members of a consolidated group. The regulations were generally effective for transactions occurring in taxable years beginning on or after July 12, 1995. See § 1.1502-13(l)(1).

Section 1.1502-13(l)(3) of the regulations permitted taxpayers to elect to have the new regulations apply to stock elimination transactions (i.e., those transactions described in § 1.1502-13(l)(3)(ii)) to which prior law would otherwise apply. To make the Election under § 1.1502-13(l)(3), taxpayers were required to include a statement making the Election with their timely filed original return (including extensions) for the taxable year including July 12, 1995.

Parent has represented that except for the Old Foreign Sub 1 Distribution, no member of the Parent Group had any deferred stock gain or loss from an intercompany

transaction at any time during or prior to the taxable year that included July 12, 1995, that was not taken into account prior to July 12, 1995. Parent has also represented that it is not seeking to alter a return position for which an accuracy related penalty has been or could be imposed under § 6662 at the time of its request (taking into account any qualified amended return filed within the meaning of § 1.6664-2(c)(3)) and for which the new return position requires or permits a regulatory election for which relief is requested.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code except subtitles E, G, H, and I.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. See § 301.9100-1(a). Section 301.9100-2 provides automatic extensions of time for making certain elections. Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government. See § 301.9100-3(a).

In this case, the time for filing the Election is fixed by the regulations (i.e., § 1.1502-13(l)(3)). Therefore, the Commissioner has discretionary authority under § 301.9100-3 to grant an extension of time for Parent to file the Election, provided Parent shows it acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government.

Information, affidavits, and representations submitted by Parent, Company Official, and Tax Professionals explain the circumstances that resulted in the failure to timely file a valid Election. The information establishes that Parent reasonably relied on a qualified tax professional who failed to make, or advise Parent to make, the Election, and that the request for relief was filed before the failure to make the Election was discovered by the Internal Revenue Service. See § 301.9100-3(b)(1)(i) and (v).

Based on the facts and information submitted, including the representations made, we conclude that Parent has shown it acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government. Accordingly, an extension of time is granted under § 301.9100-3, until 90 days from the date on this letter, for Parent to file the Election. The election must be attached to an amended return for the period including July 12, 1995.

The above extension of time is conditioned on Parent Group's consolidated tax liability (if any) being not lower, in the aggregate, for all years to which the Election applies, than it would have been if the Election had been timely filed (taking into account

the time value of money). We express no opinion as to the taxpayer's tax liability for the years involved. A determination thereof will be made by the applicable Director's office upon audit of the Federal income tax returns involved.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. In particular, we express no opinion with respect to whether Parent Group qualifies substantively to make the Election.

In addition, we express no opinion as to the tax consequences of filing the Election late under the provisions of any other section of the Code and regulations, or as to the tax treatment of any conditions existing at the time of, or resulting from, filing the Election late that are not specifically set forth in the above ruling.

For purposes of granting relief under § 301.9100-3, we relied on certain statements and representations made by Parent, Company Official, and Tax Professionals. However, the Director should verify all essential facts. In addition, notwithstanding that an extension is granted under § 301.9100-3 to file the Election, penalties and interest that would otherwise be applicable, if any, continue to apply.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of this letter ruling.

Pursuant to the power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

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Ken Cohen  
Senior Technician Reviewer, Branch 3  
Office of Associate Chief Counsel (Corporate)

cc: